IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 26TH OCTOBER 2007 / 4TH KARTHIKA 1929

WP(C).No. 1776 of 2005(J)

PETITIONER:

MARIAMMA VARGHESE, RTD. HEADMASTER,
SEENA SADAN,
VELLAPPARA P.O. PATHANAMTHITTA.

BY ADV. SRI.P.B.SAHASRANAMAN
SRI.K.JAGADEESH
SRI.T.S.HARIKUMAR

RESPONDENTS:

STATE OF KERALA, REP. BY THE PRINCIPAL
SECRETARY(FINANCE), FINANCE DEPARTMENT,
THIRUVANANTHAPURAM.

BY SPL. GOVERNMENT PLEADER SRI. MOHAMMED FAZIL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 1776/2005 J

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE REPRESENTATION FILED BEFORE THE RESPONDENT THROUGH PROPER CHANNEL, DT. 26/3/2003.

EXT.P2. COPY OF THE ORDER NO. 39503/PRU-1/2004/FIN DT. 12/08/2004.

RESPONDENT'S EXHIBITS **NIL.**

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K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 1776 OF 2005-J

JUDGMENT

The petitioner joined Government Service as P.D.Teacher on 22.7.1974. She was promoted as Headmistress on 12.2.2000 and retired from service from the said post on 1.5.2003. She was not able to opt in time for the pay revision, which came into force with effect from 1.3.1992. So, she filed Ext.P1 representation dated 16.3.2003, claiming a chance to re-opt. According to her, she was not aware of the opportunity given to the Teachers similarly placed like her to re-opt. Therefore, she could not exercise re-option in time. The said representation was rejected by the Government, by Ext.P2 communication. So, this Writ Petition was filed, challenging Ext.P2 and praying for a direction to the Government to allow her to exercise re-option.

2. The respondent has filed a counter affidavit, stating that the Teachers were given a second chance to exercise re-option, as per G.O.P) No.380/94/(13)/Fin dated 9.6.1994. Again, another chance was given to exercise re-option as per G.O.(P) No.399/(178)/99/Fin dated 5.2.1999. The petitioner failed to avail those two chances and therefore, now she cannot be

given a third chance. So, the respondent prays for dismissal of the writ petition. The petitioner has not filed any reply affidavit.

3. The Government servants cannot be allowed re-opt according to their convenience, based on the claim that they did not know about the chance given for re-option. Therefore, I find nothing illegal with the stand taken by the Government in Ext.P2, especially in view of the facts pleaded in the counter affidavit. Accordingly, the writ petition fails and it is dismissed.

26th October, 2007. **K.BALAKRISHNAN NAIR, JUDGE**.

Nm/